



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0091; Notice 1]

Mercedes-Benz USA, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Mercedes-Benz AG (“MBAG”) and Mercedes-Benz USA, LLC, (“MBUSA”) (collectively, “Mercedes-Benz”) have determined that certain model year (MY) 2019–2021 Mercedes-Benz motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 135, *Light Vehicle Brake Systems*. Mercedes-Benz filed a noncompliance report dated August 14, 2020. Mercedes-Benz subsequently petitioned NHTSA on September 4, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Mercedes-Benz’s petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview: Mercedes-Benz has determined that certain MY 2019–2021 Mercedes-Benz A-Class, CLA-Class, GLA-Class, and GLB-Class motor vehicles do not fully comply with the requirements of paragraph S5.1.2 of FMVSS No. 135, *Light Vehicle Brake Systems* (49 CFR 571.135). Mercedes-Benz filed a noncompliance report dated August 14, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mercedes-Benz subsequently petitioned NHTSA on September 4, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Mercedes-Benz’s petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 56,223 of the following MY 2019–2021 Mercedes-Benz A-Class, CLA-Class, GLA-Class, and GLB-Class motor vehicles, manufactured between October 8, 2018, and July 27, 2020, are potentially involved:

- 2020 Mercedes-Benz A35 AMG
- 2020 Mercedes-Benz CLA45 AMG
- 2021 Mercedes-Benz GLA250
- 2019–2020 Mercedes-Benz A220
- 2020–2021 Mercedes-Benz CLA250
- 2020 Mercedes-Benz CLA35 AMG
- 2021 Mercedes-Benz GLA45 AMG
- 2021 Mercedes-Benz GLA35 AMG
- 2020 Mercedes-Benz GLB250

III. Noncompliance: Mercedes-Benz explains that the noncompliance is that the subject vehicles are not equipped with an acoustic or optical device that warns the driver when the rear brake lining requires replacement, and therefore, does not meet the requirements specified in paragraph S5.1.2 of FMVSS No. 135. Specifically, the subject vehicles do not have an electrical sensor to measure the thickness of the rear brake pads.

IV. Rule Requirements: Paragraph S5.1.2 of FMVSS No. 135 includes the requirements relevant to this petition. The wear condition of all service brakes shall be indicated by either acoustic or optical devices warning the driver at his or her driving position when lining replacement is necessary or by way of visually checking the degree of brake lining wear, from the outside or underside of the vehicle, utilizing only the tools or equipment normally supplied with the vehicle. The removal of wheels is permitted for this purpose.

V. Summary of Mercedes-Benz's Petition: The following views and arguments presented in this section, "V. Summary of Mercedes-Benz's Petition", are the views and arguments provided by Mercedes-Benz. They have not been evaluated by the Agency and do not reflect the views of the Agency. Mercedes-Benz described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mercedes-Benz submitted the following reasoning:

1. In the affected vehicles, the front service brakes use an electrical brake pad sensor to monitor the thickness of the front brake pads. Once the front brakes reach a thickness of 1/8 inch or 3 mm, a warning lamp will automatically display in the instrument cluster and will remain permanently illuminated until the vehicle is serviced. In addition, the message appears in the instrument cluster and communicates the brake pad wear status to the driver.
2. The brake warning indicator and in-vehicle message will display at each ignition cycle until the brake pads are replaced. The warning lamp cannot be extinguished

unless new brake pads are installed. While the driver could manually extinguish the warning message, it will automatically reappear at each ignition cycle.

3. Depending on the vehicle platform, the brake force distribution is in a range of 71.9%–75.5% (front)/ 28.1%–24.5% (rear). This means that between nearly 72% to more than 75% of the vehicle's braking force is generated by the front brake pads. Because of the brake force distribution, the front brake pads will always initially wear out faster than the brake pads on the rear wheels. Indeed, the front brake pads will then continue to wear out at a faster pace than the rear brake pads, approximately 1 ½ to 2 times more frequently depending on the operator's driving style.
4. Once the front brake pads reach a thickness of approximately 3 mm, both the warning lamp and the warning message are automatically triggered, and the consumer is advised to visit the workshop to have the front brake pads replaced. Any time one set of brake pads is inspected at a Mercedes-Benz workshop, the standard work instructions direct the technician to also inspect and evaluate the status of all other sets of brake pads. (This inspection is carried out visually with the tire and wheel on the vehicle. In exceptional circumstances, the technician may need to remove the wheel to conduct the inspection and measurement. The technician does not use the gauge tool discussed in this petition in either scenario.) The workshop instructions provide that the technician is to assess the remaining braking distance for each axle based on the thickness of the brake pad that is most heavily worn. If the remaining thickness of the brake pads is not sufficient to make it to the next service interval, the customer will be advised to replace the brake pads. However, if the wear limit has already been reached, the technician will automatically replace the brake pads. Thus, at every Mercedes-Benz workshop visit, all four sets of brake pads will be inspected for wear. The customer will be advised of the remaining thickness and individual brake pads are replaced automatically if needed. Because the front brakes wear faster

than the rear due to the brake force distribution, the vehicle's rear brakes will be inspected by a trained professional technician a number of times before they ever need to be replaced.

5. Even if the vehicle were taken to an independent repair facility that did not follow Mercedes-Benz's comprehensive brake pad inspection protocols, there is not an increased safety risk due to the vehicle being operated with worn rear brake pads. In the worst case, if a vehicle with fully worn brake pads on the rear axle continued to operate, given the brake force distribution and the performance of the rear brakes, the vehicle would continue to meet the braking distance requirement of FMVSS No. 135. Furthermore, the brakes on the rear axle will continue to operate, even with completely worn rear brake pads, the driver will hear the unmistakable sound of metal being pressed against the brake discs. Moreover, the ABS and ESC functionality is not affected by worn rear brake pads and will continue to function normally, as needed.
6. Mercedes-Benz is not aware of any reports or complaints about the issue from the field and it has corrected the condition in production.

Mercedes-Benz concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Mercedes-Benz no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mercedes-Benz notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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